

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

TURTLE ISLAND FOODS, SPC, et al.  
Plaintiffs,

v.

Case No. 2:18-cv-4173-FJG

MARK RICHARDSON,  
Defendant.

**EXHIBIT B TO**

**INTERVENOR'S SUGGESTIONS IN OPPOSITION TO PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

*Department of Agriculture, Guidance Memorandum on Missouri's Meat Advertising Law (August 30, 2018), <https://agriculture.mo.gov/animals/pdf/missouri-meat-advertising-guidance.pdf>.*



DEPARTMENT of AGRICULTURE  
STATE OF MISSOURI  
JEFFERSON CITY

MICHAEL L. PARSON  
GOVERNOR

*Serving, promoting and protecting the agricultural producers, processors  
and consumers of Missouri's food, fuel and fiber products.*

CHRIS CHINN  
DIRECTOR

**MEMORANDUM**

TO: Meat Inspection Program  
FROM: Director's Office  
DATE: August 30, 2018  
RE: Missouri's Meat Advertising Law

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Effective August 28, 2018, Senate Bill 627 amended the Missouri meat advertising law to prohibit "misrepresenting a product as meat that is not derived from harvested production livestock or poultry."<sup>1</sup> This memorandum provides guidance on how the Missouri Department of Agriculture (MDA) will implement this new law.

**I. Background**

Missouri enacted its meat advertising law in 1985.<sup>2</sup> The law requires meat advertising to be truthful and accurate, and prohibits misleading or deceiving advertising.<sup>3</sup> The law also prohibits 20 separate advertising practices, such as using "U.S." to describe a product not graded by the United States Department of Agriculture (USDA) and restricting the use of words like "half," "bundle," or "free."<sup>4</sup>

MDA personnel are tasked with conducting inspections to determine compliance with the meat advertising law.<sup>5</sup> The MDA director is required to report any suspected violations of the meat advertising law to the prosecuting attorney of the county where the alleged violation occurred and to the Attorney General.<sup>6</sup> Violation of the meat advertising law is punishable by a class A misdemeanor.<sup>7</sup>

**II. 2018 Amendments to the Meat Advertising Law**

SB 627 incorporated the meat inspection law definitions for livestock, meat, and poultry.<sup>8</sup> Using these definitions, the amended Section 265.494(7) prohibits:

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<sup>1</sup> MO. REV. STAT. § 265.494(7).

<sup>2</sup> L. 1985 H.B. 490 & 532.

<sup>3</sup> MO. REV. STAT. § 265.492.

<sup>4</sup> MO. REV. STAT. § 265.494(8), (19), (20).

<sup>5</sup> MO. REV. STAT. § 265.497.

<sup>6</sup> *Id.*

<sup>7</sup> MO. REV. STAT. § 265.496.

<sup>8</sup> MO. REV. STAT. § 265.490(4), (5), (8).

misrepresenting a product as meat *[any edible portion of livestock, poultry, or captive cervid<sup>9</sup> carcass or part thereof]* that is not derived from harvested production livestock *[cattle, calves, sheep, swine, ratite birds including but not limited to ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, bison, elk documented as obtained from a legal source and not from the wild, goats, or horses, other equines, or rabbits raised in confinement for human consumption]* or poultry *[any domesticated bird intended for human consumption]*.

### **III. MDA Implementation of the 2018 Meat Advertising Law Amendments**

To prepare for the implementation of the 2018 meat advertising law amendments, MDA studied state and federal meat advertising standards. MDA also visited with stakeholders and evaluated products currently in the marketplace. Based on this thorough review, MDA believes it is important to businesses and consumers to provide clarity about when MDA will make referrals to a county prosecutor and the Attorney General. MDA will not refer products whose labels contain the following:

- Prominent statement on the front of the package, immediately before or immediately after the product name, that the product is “plant-based,” “veggie,” “lab-grown,” “lab-created,” or a comparable qualifier; and
- Prominent statement on the package that the product is “made from plants,” “grown in a lab,” or a comparable disclosure.<sup>10</sup>

In MDA’s opinion, products that contain these statements do not misrepresent themselves as meat and thus do not violate Section 265.494(7). Products that do not contain these statements or similar prominent statements should be more closely examined. If the product is marketed as a meat product but does not contain any disclosure that it is derived from sources other than harvested production livestock or poultry, then the product may be suspected of violating Section 265.494(7). The Director’s Office should be informed of any such products to allow for a determination, and possible referral, of a suspected violation. To allow for any necessary label changes to be made, MDA will not make any referrals until January 1, 2019.<sup>11</sup>

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<sup>9</sup> The captive cervid portion of the definition of meat is currently enjoined. *See Missouri Conservation Comm’n v. Hawley*, No. 18AC-CC00339 (Cole County Cir. Ct. Aug. 27, 2018).

<sup>10</sup> Because lab-created products have not yet reached the marketplace, MDA may need to refine or expand this guidance once the products are fully developed. Because they are expected to have more similarity to products derived from harvested production livestock or poultry than plant-based products, the risk of misrepresentation likely will be greater in lab-created products. Manufacturers of lab-created products are encouraged to work with MDA on appropriate labels before attempting to sell lab-created products in Missouri.

<sup>11</sup> MDA recognizes that plant-based products already are available for sale in the Missouri marketplace. MDA will work with any company in order to avoid a product recall or enforcement referral for products containing labels created prior to this guidance. If, prior to January 1, 2019, a company makes any necessary changes to a product label that MDA confirms as consistent with this guidance, MDA will not make referrals after January 1, 2019 for any remaining product in the marketplace that bears the earlier, pre-guidance label.

Any questions regarding this guidance or specific products should be submitted to the Director's Office. Companies with plant-based products already in the Missouri marketplace who believe that their products contain the appropriate statements disclosing that the products are "plant-based" and "made from plants" may contact MDA's general counsel for confirmation. MDA will make any necessary adjustments to this guidance based on future action by the Missouri General Assembly, Congress or USDA, or a court.